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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/017,717 | 12/14/2001 | Guy Michael Miller | 346392001500 | 5287 |
| 7590 | 01/31/2006 | | EXAMINER | |
| Carol Stratford (Swiss Law Group LLC) Building 3, Palo Alto Square 3000 El Camino Real, Suite 100 Palo Alto, CA 94306 | | | ART UNIT | PAPER NUMBER |

DATE MAILED: 01/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| Communication Re: Appeal | Application No. | Applicant(s) |
|---------------------------------|--------------------------------|---------------------|
| | 10/017,717 | MILLER ET AL. |
| | Examiner Phyllis G. Spivack | Art Unit 1614 |

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –

1. The Notice of Appeal filed on _____ is not acceptable because:
 - (a) it was not timely filed.
 - (b) the statutory fee for filing the appeal was not submitted. See 37 CFR 41.20(b)(1).
 - (c) the appeal fee received on _____ was not timely filed.
 - (d) the submitted fee of \$_____ is insufficient. The appeal fee required by 37 CFR 41.20(b)(1) is \$_____.
 - (e) the appeal is not in compliance with 37 CFR 41.31(a)(1) in that no claim has been twice rejected.
 - (f) a Notice of Allowability, PTO-37, was mailed by the Office on _____.
2. The appeal brief filed on 11-7-05 is NOT acceptable for the reason(s) indicated below: *on PTO-90C*.
 - (a) the brief and/or brief fee is untimely. See 37 CFR 41.37(a).
 - (b) the statutory fee for filing the brief has not been submitted. See 37 CFR 41.20(b)(2).
 - (c) the submitted brief fee of \$_____ is insufficient. The brief fee required by 37 CFR 41.20(b)(2) is \$_____.

The appeal in this application will be dismissed unless corrective action is taken to timely submit the brief and requisite fee. See 37 CFR 41.37(a)(1). Extensions of time may be obtained under 37 CFR 1.136(a). See 37 CFR 41.37(e).
3. The appeal in this application is DISMISSED because:
 - (a) the statutory fee for filing the brief as required under 37 CFR 41.20(b)(2) was not timely submitted and the period for obtaining an extension of time to file the brief under 37 CFR 1.136(a) has expired.
 - (b) the brief was not timely filed and the period for obtaining an extension of time to file the brief under 37 CFR 1.136(a) has expired.
 - (c) a Request for Continued Examination (RCE) under 37 CFR 1.114 was filed on _____.
 - (d) other: _____.
4. Because of the dismissal of the appeal, this application:
 - (a) is abandoned because there are no allowed claims.
 - (b) is before the examiner for final disposition because it contains allowed claims. Prosecution on the merits remains CLOSED.
 - (c) is before the examiner for consideration.



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| APPLICATION NO./ CONTROL NO. | FILING DATE | FIRST NAMED INVENTOR / PATENT IN REEXAMINATION | ATTORNEY DOCKET NO. |
|---------------------------------|-------------|---|---------------------|
|---------------------------------|-------------|---|---------------------|

EXAMINER

ART UNIT PAPER

012706

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

An Appeal Brief filed November 7, 2005 is acknowledged. Claims 41, 42, 44-64 and 98-106 are pending.

The brief does not contain a concise statement of each ground of rejection presented for review as required by 37 CFR 41.37(c)(1)(vi).

Concerning the second ground of rejection to be reviewed on appeal, Applicants state claims 41, 42, 44-64 and 98-106 stand rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Wechter, W.J., US 2004/0029954.

There is no such rejection of record.

Further, an appellant's brief must be responsive to every ground of rejection stated by the Examiner.

Applicants are given one month or 30 days from the mailing of the notification of non-compliance, whichever is longer, to correct the defects.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Phyllis G. Spivack whose telephone number is 571-272-0585. The Examiner can normally be reached from 10:30 to 7 PM.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Christopher Low, can be reached 571-272-951. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

January 27, 2006

Phyllis G. Spivack

Phyllis Spivack
PHYLLIS SPIVACK
PRIMARY EXAMINER